

Resolution No. 97-7

To Create the Lower Bug Creek Zoning District and Regulations

- WHEREAS, the Board of Lake County Commissioners adopted a comprehensive land use plan in July 1988, entitled the Lake County General Plan; and
- WHEREAS, the Lake County General Plan provides for establishing better land use controls around Swan Lake; and
- WHEREAS, the Lake County Planning Board prepared a proposal to create the zoning district and recommended the Lower Bug Creek Zoning District and Regulations be adopted by the County Commissioners; and
- WHEREAS, the Board of County Commissioners conducted a public hearing on February 19, 1997 on the proposed creation of the Lower Bug Creek Zoning District and the adoption of the proposed regulations; and
- WHEREAS, the Board of County Commissioners has determined that there is sufficient public interest to create the district and adopt the regulations for the Lower Bug Creek area; and
- WHEREAS, the Board of County Commissioners adopted a Resolution of Intent No. 97-3 on January 9, 1997 to create the Lower Bug Creek Zoning District and adopt regulations; and
- WHEREAS, notice of the resolution of intention was published in the Lake County Leader for two consecutive weeks; and
- WHEREAS, the 30-day protest period as required by law expired on February 18, 1997; and
- WHEREAS, the Board of County Commissioners conducted a final public hearing on February 19, 1997; and
- WHEREAS, no written protest was received against the proposed creation of the District or the adoption of the regulations for the Lower Bug Creek Area.

NOW THEREFORE, BE IT RESOLVED, BY THE BOARD OF LAKE COUNTY COMMISSIONERS THAT:


The Lower Bug Creek Zoning District and Regulations are hereby adopted by action taken by the Board of Commissioners on February 19, 1997, pursuant to Section 76-2-201 through 76-2-228, Montana Code Annotated.

That the Lower Bug Creek Zoning District and Regulations are hereby attached to this resolution as Exhibit 'A' and are on file with the Lake County Clerk and Recorder.

That the effective date of the Lower Bug Creek Zoning District and Regulations shall be February 20, 1997.

PASSED AND ADOPTED THIS 19th Day of February 1997.

LAKE COUNTY BOARD OF COUNTY COMMISSIONERS


BARRY BAKER, CHAIRMAN


MIKE HUTCHIN, MEMBER


DAVE STIPE, MEMBER

Attest:

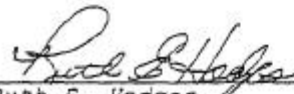

Ruth E. Hodges
Clerk and Recorder

EXHIBIT 'A'

LOWER BUG CREEK ZONING DISTRICT AND REGULATIONS

I. PURPOSE

The purpose of the zoning is to help guide growth and development in the area, to maintain the rural character of the area and allow for development that is consistent and compatible with the existing pattern of growth, to protect and enhance property values and amenities, and to protect and enhance the natural environment and water quality, and wildlife.

II. BOUNDARY

North boundary

At the point where the common range line of Range 18 and Range 19 West intersect at the high water mark of Swan Lake.

East boundary

Low water mark of Swan Lake.

West boundary

The common range line of Range 18 and Range 19 West, P.M.M.

South boundary

The common township line between Township 25 and 26 North.

The district boundaries are shown on the attached map.

III. DISTRICT REGULATIONS

A. Intent

The intent of regulation within the unit is to maintain the open and rural character and allow for development that is consistent and compatible with the existing pattern of growth.

B. Permitted Uses

1. Single family residential
2. One guest house
3. Agricultural and Forestry Operations

C. Conditional Uses

1. Cluster development on tracts that do not border the lake.
2. Home occupations
3. A second guest house
4. Common Lake Access

D. Prohibited Uses

All uses not specifically allowed as a permitted use or may be allowed as a conditional use are expressly prohibited.

E. Density

1. Lake front lots shall be a minimum of 3 acres in size and contain a minimum of 200 feet of lake frontage.
2. Lots which do not border the lake shall be a minimum of 10 acres in size.

F. Structures

1. Structures shall not be located on slopes which exceed 25 percent slope.
2. Accessory structures shall meet all setback requirements, with the exception of lake related structures which are regulated under Lakeshore Protection Regulations.
3. Satellite dish antennae shall be setback as far as practical from the lake, and in no event shall the satellite dish be visible from the lake or lakeshore.
4. Structure height shall not exceed 30 feet as measured from the average ground elevation.
5. Wood shake roofing shall be prohibited on construction of new buildings. Existing buildings with wood shake roofing may be repaired or remodeled utilizing wood shakes, provided the new shakes are coated with fire retardant material.
6. Setbacks
 - a. 50 feet from the lake
 - b. 50 feet from any public road
 - c. 50 feet from any property line
7. Existing residential structures that do not meet the setback requirements may:
 - a. Be rebuilt in their present location in the event of being destroyed by fire or other natural disaster.
 - b. Be remodeled at their present location provided that the expansion of the ground coverage of the structure does not exceed 50 percent of the ground coverage of the existing structure, and provided that no portion of the expansion shall extend closer than the existing structure to the lake.
8. A reasonable variance shall be granted to allow construction of a residence on lots that exist at the time zoning is adopted which cannot meet the setbacks in the zoning, provided that no residence shall be closer than 20 feet to the lake and that adequate storm drainage is assured.

G. Common Lake Access

Due to the unique nature of the Lower Bug Creek area with regard to the size and amount of individual lakeshore ownership, common lake access may be allowed as a conditional use for secondary lots, provided that the access shall be a minimum of 200 feet of lakefront, except an additional 50 feet of lakefront shall be added for each dwelling unit in excess of one that utilizes the access. No structures requiring water or sewer facilities shall be placed on a common lake access.

H. Cluster Development

Cluster development which allows for lot sizes to be less than the required minimum may be allowed for lots that do not border the lake provided that the overall density of the subject parcel shall not exceed the required density per acre. However, such use may only be allowed as a conditional use.

Cluster development is prohibited on lakefront lots.

I. Land Division

All land divisions shall conform to the requirements of the zoning regulations.

- J. Zoning Conformance Permit
Prior to construction of any building, modification, change or expansion of any use or building within the zoning district, the landowner shall obtain a zoning conformance permit from the Lake County Land Services Department to assure compliance with the Zoning Regulations. Failure to obtain a permit or failure to comply with the standards of the zoning district or any term, limit or condition imposed by any order or permit issued pursuant to these regulations shall constitute a violation of the zoning and may be punishable under the violation section of these regulations.

No permit shall be required for structures less than 100 square feet in size, provided they are not located within 20 feet of the mean annual high water mark of Swan Lake, and provided they meet all other requirements of section 3(F).

- K. Storm Drainage
All development shall demonstrate that any storm run off that results from physical improvement of the property will be removed without causing damage or harm to the natural environment and water quality or to property adjacent to the subject property.
- L. Existing Uses
Nothing in this regulation shall be construed to prevent or prohibit the use of any legally existing building, structure, lot, or premises in use at the time of adoption of such ordinance.
- M. Applicability
If any private covenants, conditions, and restrictions (CC & R's) are more restrictive than the provisions of this zoning ordinance, the private CC & R's shall govern to the extent they are more restrictive.
- N. Home Occupations
1. Intent
The intent is to prevent the commercialization of a residential area, by limiting the floor area and potential impacts resulting from an occasional commercial transaction.
 2. Determination
The decision as to whether a use is a home occupation under the zoning regulations shall be made by the Zoning Officer and that decision may be appealed to the Board of Adjustment.
 3. Review Guidelines
A use that is determined to be a home occupation under the terms of the zoning regulations, may be allowed as a conditional use, and the following guidelines shall be considered by the Board of Adjustment:
 - a. The use of the residential property for a home occupation must be clearly incidental to its use for residential purposes.
 - b. The home occupation shall be conducted entirely within the residence, but the total floor area used for the home occupation shall not exceed 1200 square feet.
 - c. The outside appearance of the building or premises used for the home occupation shall be substantially similar to the appearance of other residential properties in the area.

- d. No traffic shall be generated by the home occupation in greater volumes than would normally be expected in the surrounding neighborhood.
- e. No equipment or process shall be used in the home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the property.
- f. A home occupation shall not require any employees beyond the owner(s) that utilize the structure as their residence.
- g. The on premise sale or demonstration of goods, products or wares to public or private consumers shall be prohibited.

O. Administration

1. Interpretation:

The Lake County Planning Director shall be designated as the Zoning Officer with the responsibility to implement the zoning regulations. Any interpretation or decision by the Zoning Officer concerning the zoning district and regulations may be appealed to the Lake County Board of Adjustments by any landowner within the district in accordance with the appeals section of these regulations.

2. Appeals, Special Exceptions, Conditional Uses, and Variance:

The Lake County Board of Adjustment has been created by the Lake County Board of Commissioners and shall have the authority to hear and decide upon appeals, special exceptions, conditional uses, and variances in accordance with Section 76-2-223, M.C.A.

3. Grievance

An aggrieved landowner, within the district, may appeal the decision of the Zoning Officer to the Board of Adjustment or a decision of the Board of Adjustment to a Court of Record provided that, the appeal is filed in 30 days or less of the issuance of decision to be contested.

4. Floodplains and Wetlands

Any land owner within the Zoning District who proposes to develop an area that is subject to a flood of 100-year frequency or as a federally recognized wetland shall obtain all necessary permits from the State, Federal or Local Government prior to applying for a zoning conformance permit.

P. Violation

A violation shall be deemed to have occurred when any building is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any land is used in a manner that is contrary to these regulations. Additionally, it shall be a violation to fail to fully comply with any condition contained in a permit or to fail to wholly comply with any lawful order issued pursuant to these regulations.

In the event a violation occurs, the County Attorney may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct, or abate such violation; to prevent use of such building or land; to prevent any illegal act, conduct, business, or use in or about such premises.

Q. Amendment

The zoning regulations may be amended in whole or in part by the affirmative vote of the Board of Commissioners in accordance with the following process:

1. Any proposed amendment must be initiated by the Planning Board or by a petition of 40% of the landowners within the zoning district. For purposes of the petition, each tract or record at the time the petition is submitted to the County shall be considered as one landholding. The landholder shall be considered as the party receiving the tax notice on the landholding.
2. Mandatory review of the district and regulations shall be conducted in the first and sixth year of each decade.
3. Any proposed amendments shall be referred to the Lake County Planning Board for review.
4. The Planning Board shall hold a public hearing on the amendments and shall cause a legal notice to be published in a newspaper of general circulation in the planning area.
5. The Planning Board shall make a recommendation on the proposed amendment to the Commissioners.
6. The Commissioners may act on the proposed amendment upon receipt of the Planning Board Recommendations.

DEFINITIONS

A. Accessory Building

A subordinate structure on the same lot as the principal or main building or use occupied or devoted to a use incidental to the principal use.

B. Agricultural Use

Any management of any land for agriculture; raising of cows, horses, pigs, poultry and other livestock; forestry; horticulture or orchards; including the sale of products grown or raised directly on such land; and including the construction, alteration or maintenance of agricultural buildings, roads, drainage systems, irrigation systems, farm ponds, and fish ponds.

C. Average Building Height

The vertical distance of a building measured from the average elevation of the finished grade within twenty (20) feet of the structure to the highest point of the roof.

D. Building

Any structure including attached decking having a roof supported by columns or wall and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials or any kind or

- E. **Commercial Use**
Any use involving the sale, rental, or distribution of goods, services, or commodities, either retail or wholesale, or the provision of recreation facilities or activities for a fee, except as may be allowed as a conditional use home occupation.
- F. **Conditional Use**
Following a public hearing, the Board of Adjustment may authorize such use, upon a finding that it is compatible with surrounding land uses and will comply with all conditions and standards for location, design, and operation of such use.
- G. **Dwelling Unit**
A structure or portion thereof which is used exclusively for human habitation. Single wide mobile homes and recreational type vehicles are not dwelling units and shall not be used as such.
- H. **Guest House**
An accessory building designed for use for occupancy on a temporary basis by the landowner's guests. A guest house shall not be used for sale or rental purposes.
- I. **Home Occupation**
Any occupation carried on entirely within a residence by the occupants thereof, which activity is clearly incidental to the use of said residence as a dwelling and does not change the residential character thereof, is conducted in such a manner as to not give any outward appearance nor manifest any characteristic of a business in the ordinary meaning of the term, and does not infringe upon the rights of neighboring residents to enjoy a peaceful occupancy of their homes.
- J. **Industrial Use**
Any manufacturing, production or assembly of goods or materials, including any on-site waste disposal area directly associated with an industrial use. This term does not include mineral extractions. This term includes junkyards and similar facilities or uses. This term does not include manufacturing, production, or assembly that may be allowed as a home occupation under a conditional use.
- K. **Legally Existing**
The use is in full compliance with all applicable laws, rules, and regulations, including but not limited to possession of and compliance with any permit, license, or other approval required under Federal, State or Local regulations.
- L. **Manufactured Housing**
A single family dwelling, built off-site in a factory after January 1, 1990, that is a minimum of 20 feet in width, that is placed on a permanent foundation, is at least 1,000 square feet in size, has a pitched roof, siding and roofing materials that are customarily used on site-built homes, and is in compliance with the applicable prevailing standards of the United States Department of Housing and Urban Development at the time of its production.

- M. Mobile Home Parks
Any parcel of land under single or undivided ownership which is designed and improved for the placement of two or more mobile home units.
- N. Permit
Written authorization issued by the Zoning Officer on behalf of Lake County or by the Board of Adjustment pursuant to these regulations.
- O. Permitted Use
A use or activity which is allowed by the district regulations for which a permit may be required.
- P. Prohibited Use
A use or activity which is not allowed within the zoning district. In order to establish a prohibited use, a variance must be issued by the Lake County Board of Adjustment.
- Q. Residential Single Family
Any detached building containing one dwelling unit, containing facilities for cooking, living, and sleeping and designed for permanent occupancy by one family. Single wide mobile homes and recreational type vehicles are not single family residential units and shall not be used as such.
- R. Residential Multi-Family
Any apartment, townhouse, condominium, or similar building, including the conversion of an existing single family dwelling, designed for occupancy in separate living quarters by more than one family.
- S. Recreational Vehicle Campground
A place used for public camping where persons can rent space to park individual camping trailers, pick up campers, motor homes, travel trailers, or automobiles for transient dwelling purposes.
- T. Slope or Grade
The degree of deviation of a surface from horizontal. For the purposes of these regulations slope or grade is expressed in percent.
- U. Variance
Relief afforded to a landowner by the Board of Adjustment from the standards contained in these regulations in accordance with 76-2-223 M.C.A.

TO LOWER BUG CREEK
ZONING DISTRICT
JUNE 1, 1993

